



# WISCONSIN REGULATORY DIGEST

## A Publication of the EXAMINING BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

Volume 6, No. 2

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### THE WISCONSIN EXAMINING BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

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A word of caution: If you were grandfathered in as a CICSW but do not have a MSW, be sure you include your degree when you submit your charges to 3rd party payers. Many insurance companies who only reimburse MSW, Ph.D.'s and MD's, may assume you are a MSW if you only put CICSW after your name. It would be costly to you and/or your clinic if an insurance company who only pays MSW's, finds out that they have made payments to non-MSW's and request their payments be returned to them.

**Protected Title:** You cannot call yourself a social worker in Wisconsin unless you are certified at one of the following 4 levels as a social worker, CSW, APSW, CISW and CICSW.

**CEH:** Certified social workers are required to get 30 hours of continuing education hours every 2 years. Four of those hours are required to be in social work ethics, of which two must cover boundary issues. This must be taught face to face and not through any media.

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#### Tidbits by Anita Kropf

## Supervision

CICSW's are often asked to supervise someone's practice. Be aware that a supervisor is taking on the responsibility of the cases being treated by the supervisee. Therefore, they are also liable if there are any lawsuits as the result of any infractions by the supervisee. This is especially a great risk if, for example, the CICSW is supervising a drug and alcohol counselor with little if any knowledge in that field. Are you then practicing beyond the scope of your competency and subjecting yourself to discipline by the Social Work Section who granted your credential? Be very sure that you are competent in any and all areas in the field of the person you are supervising.

## Governor Tommy Thompson Signs Whistleblower Law

1999 WISCONSIN ACT 176 went into effect on June 2, 2000. The full text of the act follows:

AN ACT *to amend* 111.322 (2m) (a) and 111.322 (2m) (b); and *to create* 106.06 (6), 146.997 and 230.45 (1) (L) of the statutes; **relating to:** disciplinary action against an employe of a health care facility or a health care provider who reports a violation of the law or a violation of a clinical or ethical standard by the health care facility or health care provider or by an employe of the health care facility or health care provider and providing a penalty.

*The people of the state of Wisconsin,  
represented in senate and assembly, do enact  
as follows:*

**SECTION 1.** 106.06 (6) of the statutes is created to read:

**106.06 (6)** The division shall receive complaints under s. 146.997 (4) (a) of disciplinary action taken in violation of s. 146.997 (3) and shall process the complaints in the same manner that employment discrimination complaints are processed under s. 111.39.

**SECTION 2.** 111.322 (2m) (a) of the statutes is amended to read:

**111.322 (2m)** (a) The individual files a complaint or attempts to enforce any right under

s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.455, 103.50, 104.12, 109.03, 109.07 or, 109.075 or 146.997 or ss. 101.58 to 101.599 or 103.64 to 103.82.

**SECTION 3.** 111.322 (2m) (b) of the statutes is amended to read: 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.455, 103.50, 104.12, 109.03, 109.07 or, 109.075 or 146.997 or ss. 101.58 to 101.599 or 103.64 to 103.82.

**SECTION 4.** 146.997 of the statutes is created to read:

**146.997 Health care worker protection.** (1) **DEFINITIONS.** In this section:

(a) "Department" means the department of workforce development.

(b) "Disciplinary action" has the meaning given in s. 230.80 (2).

(c) "Health care facility" means a facility, as defined in s. 647.01 (4), or any hospital, nursing home, community-based residential facility, county home, county infirmary, county hospital, county mental health complex, tuberculosis sanatorium or other place licensed or approved by the department of health and family services under s. 49.70, 49.71, 49.72, 50.03, 50.35, 51.08, 51.09, 58.06, 252.073 or 252.076 or a facility under s. 45.365, 51.05, 51.06, 233.40, 233.41, 233.42 or 252.10.

(d) "Health care provider" means any of the following:

1. A nurse licensed under ch. 441.
2. A chiropractor licensed under ch. 446.
3. A dentist licensed under ch. 447.
4. A physician, podiatrist or physical therapist licensed under ch. 448.
5. An occupational therapist, occupational therapy assistant, physician assistant or respiratory care practitioner certified under ch. 448.
6. A dietician certified under subch. V of ch. 448.
7. An optometrist licensed under ch. 449.
8. A pharmacist licensed under ch. 450.
9. An acupuncturist certified under ch. 451.
10. A psychologist licensed under ch. 455.

11. A social worker, marriage and family therapist or professional counselor certified under ch. 457.

12. A speech–language pathologist or audiologist licensed under subch. II of ch. 459 or a speech and language pathologist licensed by the department of public instruction.

13. A massage therapist or bodyworker issued a license of registration under subch. XI of ch. 440.

14. An emergency medical technician licensed under s. 146.50 (5) or a first responder.

15. A partnership of any providers specified under subds. 1. to 14.

16. A corporation or limited liability company of any providers specified under subds. 1. to 14. that provides health care services.

17. An operational cooperative sickness care plan organized under ss. 185.981 to 185.985 that directly provides services through salaried employees in its own facility.

18. A hospice licensed under subch. IV of ch. 50

19. A rural medical center, as defined in s. 50.50 (11).

20. A home health agency, as defined in s. 50.49 (1)(a).

**(2) REPORTING PROTECTED.** (a) Any employee of a health care facility or of a health care provider who is aware of any information, the disclosure of which is not expressly prohibited by any state law or rule or any federal law or regulation, that would lead a reasonable person to believe any of the following may report that information to any agency, as defined in s. 111.32 (6) (a), of the state; to any professionally recognized accrediting or standard–setting body that has accredited, certified or otherwise approved the health care facility or health care provider; to any officer or director of the health care facility or health care provider; or to any employee of the health care facility or health care provider who is in a supervisory capacity or in a position to take corrective action:

1. That the health care facility or health care provider or any employee of the health care facility or health care provider has violated any state law or rule or federal law or regulation.

2. That there exists any situation in which the quality of any health care service provided by the health care facility or health care provider or by any employee of the health care facility or health care provider violates any standard established by any state law or rule or federal law or regulation or any clinical or ethical standard established by a professionally recognized accrediting or standard–setting body and poses a potential risk to public health or safety.

(b) An agency or accrediting or standard–setting body that receives a report under par. (a) shall, within 5 days after receiving the report, notify the health care facility or health provider that is the subject of the report, in writing, that a report alleging a violation specified in par. (a) 1. or 2. has been received and provide the health care facility or health care provider with a written summary of the contents of the report, unless the agency, or accrediting or standard–setting body determines that providing that notification and summary would jeopardize an ongoing investigation of a violation alleged in the report. The notification and summary may not disclose the identity of the person who made the report.

(c) Any employee of a health care facility or health care provider may initiate, participate in or testify in any action or proceeding in which a violation specified in par. (a) 1. or 2. is alleged.

(d) Any employee of a health care facility or health care provider may provide any information relating to an alleged violation specified in par. (a) 1. or 2. to any legislator or legislative committee.

**(3) DISCIPLINARY ACTION PROHIBITED.** (a) No health care facility or health care provider and no employee of a health care facility or health care provider may take disciplinary action against, or threaten to take disciplinary action against, any person because the person reported in good faith any information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d) or because the health care facility, health care provider or employee believes that the person reported in good faith any

information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d).

(b) No health care facility or health care provider and no employee of a health care facility or health care provider may take disciplinary action against, or threaten to take disciplinary action against, any person on whose behalf another person reported in good faith any information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d) or because the health care facility, health care provider or employee believes that another person reported in good faith any information under sub. (2) (a), in good faith initiated, participated in or testified in any action or proceeding under sub. (2) (c) or provided in good faith any information under sub. (2) (d) on that person's behalf.

(c) For purposes of pars. (a) and (b), an employee is not acting in good faith if the employee reports any information under sub. (2) (a) that the employee knows or should know is false or misleading, initiates, participates in or testifies in any action or proceeding under sub. (2) (c) based on information that the employee knows or should know is false or misleading or provides any information under sub. (2) (d) that the employee knows or should know is false or misleading.

**(4) ENFORCEMENT.** (a) Subject to par. (b), any employee of a health care facility or health care provider who is subjected to disciplinary action, or who is threatened with disciplinary action, in violation of sub. (3) may file a complaint with the department under s. 106.06 (6). If the department finds that a violation of sub. (3) has been committed, the department may take such action under s. 111.39 as will effectuate the purpose of this section.

(b) Any employee of a health care facility operated by an agency, as defined in s. 111.32(6) (a), of the state who is subjected to disciplinary action, or who is threatened with disciplinary action, in violation of sub. (3) may file a complaint with the personnel commission

under s. 230.45(1) (L). If the personnel commission finds that a violation of sub. (3) has been committed, the personnel commission may take such action under s. 111.39 as will effectuate the purpose of this section.

(c) Section 111.322 (2m) applies to a disciplinary action arising in connection with any proceeding under par. (a) or (b).

**(5) CIVIL PENALTY.** Any health care facility or health care provider and any employee of a health care facility or health care provider who takes disciplinary action against, or who threatens to take disciplinary action against, any person in violation of sub. (3) may be required to forfeit not more than \$1,000 for a first violation, not more than \$5,000 for a violation committed within 12 months of a previous violation and not more than \$10,000 for a violation committed within 12 months of 2 or more previous violations. The 12-month period shall be measured by using the dates of the violations that resulted in convictions.

**(6) POSTING OF NOTICE.** Each health care facility and health care provider shall post, in one or more conspicuous places where notices to employees are customarily posted, a notice in a form approved by the department setting forth employees' rights under this section. Any health care facility or health care provider that violates this subsection shall forfeit not more than \$100 for each offense.

**SECTION 5.** 230.45 (1) (L) of the statutes is created to read: 230.45 (1) (L) Receive complaints under s. 146.997(4) (a) of disciplinary action taken in violation of s. 146.997 (3) and, except as provided in sub. (1m), process the complaints in the same manner that employment discrimination complaints are processed under s. 111.39.

**SECTION 6. Nonstatutory provisions.**

(1) **EMPLOYEE NOTIFICATION.** Within 90 days after the effective date of this subsection, each health care facility, as defined in section 146.997 (1) (b) of the statutes, as created by this act, and each health care provider, as defined in section 146.997 (1) (c) of the statutes, as created by this act, shall inform its employees of their rights and remedies under this act.

**SECTION 7. Initial applicability.**

(1) **COLLECTIVE BARGAINING AGREEMENTS.** This act first applies to an

employee of a health care facility, as defined in section 146.997 (1) (b) of the statutes, as created by this act, or of a health care provider, as defined in section 146.997 (1) (c) of the statutes, as created by this act, who is affected by a collective bargaining agreement that contains provisions inconsistent with this act on the day on which the collective bargaining agreement expires or is extended, modified or renewed, whichever occurs first.

### **Disciplines**

KATHLEEN M. MARTINSON, CAPSW  
SUN PRAIRIE WI REPRIMAND/COSTS  
Failed to interview a juvenile male when he was taken into custody prior to filing the dispositional report with the court and prior to appearing at the dispositional hearings. Effective 6/15/00. Sec. 457.26(2)(f),(g), Stats. Case #LS9901081SOC

DIANA R. MADISON, CAPSW  
OSHKOSH WI SUSPENDED  
Engaged in sexual conduct with a former client within 2 years of termination of professional services. License suspended for at least 2 years. Effective 3/16/00. Sec. 457.26(2)(f), Stats. SFC 20.02(11) Case #LS0003173SOC

DAWN S. WHITE, CSW  
RICHLAND CENTER WI REVOKED  
Used client's money for her own personal use. Charged in circuit court with theft of more than \$2,500. In an effort to conceal the misappropriation she reported distorted, false, or misleading information, and made false statements in practice. Effective 5/17/00. Sec. 943.20(1)(b),(3)(c), Stats. SFC 20.02(2),(7) Case #LS00051710SOC

SHIRLEY A. LIMBERG, CICSW  
WOODRUFF WI  
REPRIMAND/EDUCATION  
Failed to immediately report a reasonable suspicion of child abuse to the county department of human services or the appropriate law enforcement agency. Effective 2/9/00. SFC 20.02(2) Case #LS0002092SOC

MARY A. HERSHBERGER, CPC  
MILWAUKEE WI  
REPRIMAND/EDUCATION

Utilized profanity in addressing a person assigned to her care, used her office door to push the person out, and slammed the door in the person's face. Effective 2/2/2000. Secs. 51.61(1)(x), 457.26(2)(f),(g),(h), Stats. SFC 20.02(2),(22) Case # LS0002021CPC

### **Meeting Dates**

#### **Social Workers Section**

September 14, 2000  
October 24, 2000  
December 6, 2000

#### **Professional Counselors Section**

September 7, 2000 November 30, 2000

#### **Marriage & Family Therapists Section**

September 13, 2000 December 5, 2000

#### **Joint Board**

September 13, 2000 December 5, 2000

### **Exam Dates**

#### **Professional Counselors NCE**

October 21, 2000

#### **Marriage & Family Therapists AMFTRB**

November 3, 2000

### **Professional Counselors**

"How to Pass Your Counselor Licensing or NBCC Certification Exam for the First Time".  
To request your free cassette tape, write:

Dr. Howard Rosenthal  
Dept. NCE-USA1  
3417 Cottonwood Drive  
St. Charles, MO 63301

Please send in a self-addressed envelope with 66 cents postage.

Department of Regulation and Licensing  
Examining Board of Social Workers,  
Marriage and Family Therapists and  
Professional Counselors  
P.O. Box 8935  
Madison, WI 53708-8935

# REGULATORY DIGEST

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## Telephone Directory

**Automated Phone System for Chiropractic,  
Acupuncture, Music, Art & Dance Therapy,  
Massage Therapy and Bodyworkers, Massage  
Therapists, Marriage & Family Therapists,  
Nursing, Optometry, Professional Counselors,  
Psychology, & Social Workers: (608) 266-0145**

- Press 1 To Request an Application  
Press 2 Status of a Pending Application  
Press 3 Verification of Credential Holder  
Press 4 Name and Address Changes  
To Request the Wisconsin Statutes and  
Administrative Codebook  
Complaint Against a Credential Holder  
To Request a Duplicate Credential  
Renewal of a Credential  
Legal Questions  
Press 5 To repeat this menu or if you are calling from  
a rotary telephone, stay on the line and your  
call will be answered in the order received.  
FAX: (608) 261-7083

## Quick Keys

The following are voice mail “short cuts”:

To request a license application for your profession,  
just dial (608) 266-0145, then enter the Quick Keys  
number below for the profession you want:

- |   |       |
|---|-------|
| Social Worker                               | 1-3-4 |
| Social Worker Training Certificate          | 1-3-3 |
| Professional Counselor Training Certificate | 1-3-3 |
| Professional Counselor                      | 1-3-2 |
| Marriage & Family Therapist                 | 1-3-1 |

## Verifications

All requests for verification of license status must be in writing. There is no charge for this service. Requests should be sent to the Department address or may be faxed to (608) 261-7083, Attention Verifications.

For our new “Online Verification of Credential Holders”, visit our website at [www.drl.state.wi.us/](http://www.drl.state.wi.us/) and click on the “Credential Holder Query” button.

## Endorsements

Requests for endorsements to other states must be in writing. The cost is \$10. Please make check or money order payable to the Department of Regulation and Licensing.

## Visit the Department’s Web Site

<http://www.drl.state.wi.us/>  
Send comments to [dorl@drl.state.wi.us](mailto:dorl@drl.state.wi.us)

## Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

**WIS. STATS. S. 440.11 ALLOWS FOR A \$50  
PENALTY TO BE IMPOSED WHEN CHANGES  
ARE NOT REPORTED WITHIN 30 DAYS.**

## Wisconsin Statutes and Code

Copies of the Wisconsin Statutes and Administrative Code for Social Workers, Marriage and Family Therapists and Professional Counselors can be ordered through the Board Office. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The most current publication date is April, 2000.

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